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PTO/SB/21 (6-98)

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# TRANSMITTAL FORM

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Total Number of Pages in This Submission

Application Number	09/747,746
Filing Date	December 22, 2000
First Named Inventor	Stephen D. Ainsworth
Group Art Unit	3738
Examiner Name	Unassigned
Attorney Docket Number	ACS 54804

## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Postcard
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Small Entity Statement	<input type="checkbox"/> Exhibits A - E
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input checked="" type="checkbox"/> Request for Refund	
<input checked="" type="checkbox"/> Response to Missing Parts/ Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
	Remarks	

24201  
PATENT TRADEMARK OFFICE

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	FULWIDER PATTON LEE & UTECHT, LLP	
	Samuel L. Alberstadt, Esq.	
Signature		
Date	August 3, 2001	

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: 08/03/01

Typed or printed name	Samuel L. Alberstadt, Esq.		
Signature		Date	August 3, 2001

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By

Samuel L. Alberstadt, Reg. No. 32,766



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ainsworth, et al.

Serial No.: 09/746,746

Filed: December 22, 2000

For: INTRAVASCULAR STENT

) Examiner: Unassigned  
)  
)  
Group Art Unit: 3738  
)  
Docket No. ACS 54804 (23571)  
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August 3, 2001  
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**APPLICANTS' RESPONSE TO JULY 26, 2001 NOTICE TO FILE MISSING PARTS AND REQUEST FOR RETURN OF THREE-MONTH EXTENSION FEE PAID ON JULY 24, 2001**

Commissioner for Patents  
Washington, DC 20231

Sir:

Applicants' response to the Notice To File Missing Parts is believed to be unnecessary. On July 24, 2001, Applicants filed all of the materials requested in the July 26, 2001 Notice to File Missing Parts. A copy of Applicants' submission is attached (Exhibit A). That attachment indicates that Applicants submitted the missing declaration, together with the \$710 application fee, the \$270 fee for additional claims, and the \$130 additional late filing fee.

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On July 24, 2001, Applicant also paid an \$890 fee for a three month time extension. Applicants respectfully requests that the \$890 be credited to the attorney's deposit account, 06-2425. The extension fee was paid based on a Notice to File Missing Parts which Applicant never received. A brief explanation follows.

Applicants filed their application by Express Mail on December 22, 2000. Applicants' attorney never received a return postcard, a filing receipt, or a Notice to File Missing Parts. After approximately five months, Applicants filed a Petition Under 37 C.F.R. § 1.10(e) to receive an application filing date (Exhibit B). Applicants' attorney believed that the application had been lost in the Patent Office, because the United States Postal Service had verified that the Patent Office received the application on December 26, 2000.

On July 9, 2001, Applicants' petition was dismissed as moot (Exhibit C). The decision on the petition stated that the Patent Office had received the Application and that a Notice to File Missing Parts was mailed to Applicants' attorney on February 26, 2001 (Exhibit D). The decision on the petition included a copy of the February 26, 2001 Notice to File Missing Parts.

In response to the July 9, 2001 decision on the petition (Exhibit C) and the February 26, 2001 Notice to File Missing Parts (Exhibit D), Applicants provided the missing declarations and the three fees cited above, totaling \$1,110 (Exhibit A). In addition, because the February 26, 2001 Notice to File Missing Parts required a response within two months, Applicants' attorney also submitted an \$890 three-month extension fee with the July 24, 2001 missing parts submission (Exhibit A).

On July 30, 2001 Applicants' attorney received the July 26, 2001 Notice to File Missing Parts, a copy of which is attached (Exhibit E). Applicants believe that the July 26, 2001 mailing of the Notice further indicates that the February 26, 2001 Notice

was never mailed to Applicants' attorney. Applicants' attorney maintains that he never received the February 26, 2001 Missing Parts notice, or any other indication that the application had been received by the Patent Office, until he received the July 9, 2001 decision dismissing the Petition for Filing Date. Similarly, Applicants had never received a filing receipt on the application until receiving the present one mailed July 26.

In view of the preceding events, Applicants' attorney believes that it is more likely that the Patent Office, and not the U.S. mail or Applicants' attorney, is responsible for the delay in filing the missing parts. Therefore, Applicants respectfully request that the \$890 submitted with the July 24, 2001 submission be credited to the deposit account of Applicants' attorney.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By   
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